IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 3264 of 2004

Between:

P.Chandrakala, W/o P.Mallesh,
R/o Warasiguda, Raghvendranagar, H.No.12-11-1085, Secunderabad**.**

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C., Dilsukhnagar Depot.
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ more particularly in the nature of Mandamus or any other appropriate Writ or direction by declaring the action of the respondent by not considering the petitioner's representation dated 26-1-2004, is illegal, arbitrary, unjust and violative of Article 226 of the Constitution. Consequently direct the respondent to consider the petitioner's representation dated on 26-1-2004.

Counsel for the Petitioner:MR.RAVI KUMAR MOTURI

Counsel for the Respondent :MR.VTM PRASAD.

The Court made the following :

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ORDER:

The petitioner is the wife of P.Mallesh who was working as a Cleaner in Dilsukhnagar A.P.S.T.R.C.Depot since 16-2-1987 to 21-1-2001. It is stated that her husband P.Mallesh did not return to the home on 21-1-2001 and is where abouts are not known till date. Her husband was only the bread winner to the family and the family is consisting of four dependents i.e. petitioner, and three unmarried daughters and solely depending upon the income of her husband and whose where abouts are not known.

It is stated that she has made a presentation on 26-01-2004 to the Depot Manager ,APSRTC Dilsuknagar,Hyderabad along with the F.I.R. of the Chilakalaguda Police Station dated 3-10-2003 for payment of consequential benefits payable to her husband.

A counter has been filed by the respondent.

This Court by interim order dated 24-02-2004 directed the respondent to consider the representation of the petitioner dated 26-01-2004 for payment of all consequential benefits arising out of her husband's job.

It is stated that pursuant to the interim order, the respondent passed an order dated 03-08-2004 stating that the services of the petitioner's husband namely Sri P.Mallesh, E.No.109982 was removed for his unauthorized absence through the separate proceedings and to settle his dues, P.Mallesh has to attend office for certain formalities so as to settle his dues but her husband did not attend the office and petitioner also not submitted any relevant document showing the status of her husband. It is further stated that as per the procedure in vogue "settlement of ex-employee will be made to the employee, if he is alive and if he is not alive, death certificate has to be submitted for payment of the dues to the nominees. In case the

employees whose where abouts are not known, the nominee has to wait for seven years from the date of Police complaint." Accordingly the petitioner was asked to furnish the relevant documents showing the present status of her husband and to take further action. When the whereabouts of a person is not known, the general presumption of his death will be presumed only after seven years.

According to the petitioner, the whereabouts are not known only from 21-01-2001. Hence, Seven years will be completed by 21-01-2008.

Therefore, it is for the petitioner either to furnish status report about her husband or wait for a period of seven years to get the death benefits payable to her husband.

Having regard to the facts and circumstance of this case, the Writ Petition is disposed of directing the respondent to act upon the request of the petitioner, if she files any document showing the status of her husband and on production of the relevant documents, and settle all the benefits payable to the husband of the petitioner and if his whereabouts are not known, settle the same immediately after expiry of seven years i.e. on 21-012008.

The Writ Petition is accordingly disposed of. No costs.

---------- 29-10-2004

Stp

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Depot Manager, A.P.S.R.T.C., Dilsukhnagar Depot.
Hyderabad.

2.2CD copies

THE HON'BLE MR JUSTICE V.ESWARAIAH

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